

## **INITIAL STATEMENT OF REASONS**

### **SECTIONS 600 – 612.**

#### **SPECIFIC PURPOSE OF THE REGULATION**

The proposed regulations will provide clarification for implementing Education Code section 49423. Specifically, the regulations clarify who may administer medications to pupils requiring medication during the regular school day, under what conditions such administration of medications may occur, and the requirements for the delivery, administration documentation, and disposal of medications.

#### **NECESSITY/RATIONALE**

Education Code section 49423.6 specifically requires the State Board of Education to adopt regulations regarding the administration of medication in the public schools pursuant to Education Code section 49423. Currently confusion exists regarding the of application of Education Code section 49423, and local education agencies, parents/guardians, and pupils are seeking and would benefit from clarification of the requirements related to the administration of medications to pupils during the regular school day.

#### **SECTION 600. DEFINITIONS.**

**Subsections (d), (1)(2)(3)(4)** - Education Code section 49423.6, subdivision (b) states that medication must be prescribed by a physician or other authorized medical personnel. California law authorizes medication to be prescribed by authorized health care providers including physicians, osteopaths, dentists, podiatrists, and optometrists who have an active, current, California license.

**Subsection (d)(5)** - Nurse practitioners and nurse midwives with furnishing numbers who possess active, current California licenses, and who are under physician supervision are authorized by California law to furnish (prescribe) medications.

**Subsection (d)(6)** - Physician assistants who possess an active California license, are under a physician's supervision, and have a written protocol from the physician are authorized to prescribe medications.

**Subsection (f)(4)(A), (B)** - Designated school personnel who are not school nurses and do not hold a current professional license authorizing the rendering of assistance to a pupil who is required to take medication, will require training on the appropriate administration of medication. Such personnel who administer life sustaining medications may face emergency or life and death situations in which respiratory failure may occur; therefore additional training, such as in cardiopulmonary resuscitation, may be necessary. In addition supervision of such personnel will ensure appropriate administration of medications.

#### **SECTION 601. REQUIREMENTS FOR PRESCRIPTION MEDICATION ADMINISTRATION.**

**Section 601, (a)(b)** - Education Code section 49423 specifies that “any pupil who is required to take, during the regular school day, medication prescribed for him by a physician, may be assisted by the school nurse or other designated school personnel if the school district receives (1) a written statement from such physician detailing the method, amount, and time schedules by which such medication is to be taken and (2) a written statement from the parent or guardian of the pupil indicating the desire that the school district assist the pupil in the matters set forth in the physician's statement.”

#### **SECTION 602. WRITTEN STATEMENT OF AUTHORIZED HEALTH CARE PROVIDER.**

**Subsection (a)(1)** - The pupil's name and date of birth identifies for whom the medication is authorized.

**Subsection (a)(2)** - The name of the medication and reason for administration identifies what needs to be administered and why. The name of the medication is needed for identification and the reason for administration provides information for expected outcomes.

**Subsections (a), (3)(4)(5)** - The amount or dose of medication prescribed, method of administration, and time of administration is required for correct administration of the authorized medication and is required by Section 49423.

**Subsection (a)(6)** - Knowledge of possible side effects from the administration of the authorized medication provides information for possible adverse reactions to the medication, the need for medical intervention, and ensures the health and safety of the pupil.

**Subsection (a)(7)** - Medications prescribed on an as-needed basis require the reason for or the occurrence of specific signs and symptoms to indicate when the medication should be administered. The frequency must also be included to avoid an overdose of the medication.

**Subsection (a)(8)** - The school may have limited or no health-related information on the pupil. The pupil's health care provider is knowledgeable about the pupil and should be able to attest to the pupil's ability to safely self-administer the medication.

**Subsection (a)(9)** - The name, address, and phone number of the authorized health care provider enables designated school personnel to communicate with the provider regarding the prescribed medication. A signature by the pupil's health care provider authorizes the written statement for prescribed medication for that pupil.

**Subsection (a)(10)** - Only nurse practitioners, nurse midwives, and physician assistants who possess a furnishing number and are under a physician's supervision are authorized to furnish/prescribe medications. Requiring the furnishing number and the name of the supervising physician ensures that only authorized nurse practitioners, nurse midwives, and physician assistants are ordering medications.

**Subsection (b)** - Authorized health care providers are prohibited from releasing medical information without written consent. A local education agency cannot communicate with a pupil's authorized health care provider without written consent from the parent/guardian. Therefore, it is necessary for the parent/guardian to be responsible for obtaining and providing the school with the authorized health care provider's written statement regarding administration of medication during the regular school day. Medication administration must be provided in compliance with Section 49423; therefore, an authorized health care provider's written statement must be provided before medication can be administered during the regular school day.

**Subsection (c)** - Standard practice is to renew medication authorizations on a periodic basis and whenever a change in the medication is required. The established time frame of annually and if there are changes in the order, are consistent with standard practice. This also ensures safety for correct medications, dosages, time of administration, and method of administration.

## **SECTION 603. PARENT/GUARDIAN CONSENT.**

**Subsection (a)** - A written statement of consent from the parent/guardian for medication administration during the regular school day is in compliance with Section 49423. All services provided to pupils during the regular school day must have parent/guardian consent.

**Subsection (b)** - In order to ensure that the medication is administered in a safe and effective manner, it may be necessary for the school nurse or schoolsite administrator to communicate with the authorized health care provider regarding the written statement.

**Subsection (c)** - Permission given by parents/guardians for health care providers and pharmacists to release medical information to local education agencies must be limited to information specifically related to the administration of the medication which is the subject of the service request. Questions should not be asked or authorized to be answered which relate to other matters in a pupil's medical records. Parents/guardians fear that unlimited access to medical information may be misused by local education agencies to affect a pupil's placement, services or otherwise be further disseminated. This subsection makes it clear that parents/guardians are not authorizing release of medical information beyond that necessary to safely and appropriately administer the medication that is the subject of the service request.

**Subsection (d)** - Standard practice is to renew medication authorizations on a periodic basis and whenever a change in the medication is required. The established time frame of annually and if there are changes in the order is consistent with this standard. This also ensures safety for correct medications, dosages, time of administration, and method of administration.

**Subsection (e)** - Just as parents/guardians have the right to consent to administration of medication to their children in school, they also have the right to rescind the request at any time. A written statement documents the request, relieves the local education agency from the responsibility of providing that medication, and will assist in ensuring that the parent/guardian request is understood and implemented.

#### **SECTION 604. PERSONS AUTHORIZED TO ADMINISTER MEDICATION AT SCHOOL.**

**Subsection (a)** – Designated school personnel includes the school nurse or other school personnel who have consented to administer the medication in accordance with the authorized health care provider's written statement. If designated school personnel are not school nurses or persons who do not hold a current professional license authorizing the rendering of assistance to a pupil who is required to take medication, they must be trained in the administration of medication, and supervised. Authorizing only school nurses or personnel who hold a current professional license authorizing the rendering of assistance to a pupil who is required to take medication, to administer medications that require intravenous administration or a nursing assessment or dosage adjustment prior to administration helps to ensure the health and safety of the pupils receiving such medication.

**Subsection (b)** - Parents/guardians have legal authority for their children and may administer medications themselves to their children during the regular school day but cannot be mandated to provide this service.

**Subsection (b)(1)** – Parents/guardians are responsible for the care provided to their children; therefore, they or one of their designees may administer medications to their children during the regular school day. The parents/guardians or anyone they designate, however, cannot be a person who for legal reasons cannot come on a school campus or accompany pupils on a field trip: for example, an individual who has been found guilty of being a sex offender. A written statement from the parents/guardians identifying who will be coming on campus to provide medications to their children during the regular school day lets the schoolsite administrator and school staff know who will be coming on the school campus.

**Subsection (c)(2)** - This subsection helps to ensure the safe and appropriate delivery of medication in the school environment and protects and ensures the health and safety of all pupils.

#### **SECTION 605. PUPIL SELF-ADMINISTRATION OF MEDICATIONS IN SCHOOL.**

**Subsection (a)** - Many pupils with chronic illnesses have the need to carry life-sustaining medications on their person at all times. The self-administration of medication must be done pursuant to the authorized health care provider's written statement and subject to parent/guardian consent. The parent/guardian and the pupil must be informed of and agree to follow the local education agency policies and procedures.

**Subsection (b)** - If the pupil cannot live up to his/her responsibilities for self-administering medication, as demonstrated, for example, by sharing medications or related equipment with peers, the schoolsite administrator, pursuant to local education agency policies and procedures, has the authority to revoke this privilege and so notify the parent/guardian, in order to ensure the health and safety of all pupils at the school.

**Subsection (c)** - This subsection requires local education agencies to consider the relevant issues and ensure that pupils who self-administer medication in school do so in a manner that is safe for those pupils and all pupils in the school.

#### **SECTION 606. DELIVERY AND STORAGE OF MEDICATION AT SCHOOL.**

This section requires local education agencies to consider the relevant issues and ensure that medications are delivered and stored in a manner that is safe for all school staff and pupils.

**Subsection (a)(1)** - Medications that are dispensed by prescription only must be filled by a pharmacist licensed in a State of the United States of America. It is the responsibility of the parent/guardian to ensure that such medications are dispensed by appropriately licensed pharmacists. Part of labeling requirement law is that all prescription labels on the container include the pharmacist's phone number to call with questions.

**Subsections (a), (2)(3)** - Informing the parent/guardian that each medication to be administered during the regular school day must be properly labeled and/or provided in their original contained, helps to enable designated school personnel to know what the pills are and thereby ensure appropriate administration.

**Subsection (b)** - Some medications must be stored in a refrigerator to maintain their effectiveness; others can be stored in a dry cabinet. All medications, in all stored areas, must be locked in a location protected from persons not designated to administer the medications.

#### **SECTION 607. DOCUMENTATION OF MEDICATION ADMINISTRATION IN SCHOOL.**

Documentation of medication administration validates its provision.

**Subsections (a)(b)** - The medication log requires documentation that provides accountability in the appropriate administration of medications, and an *individual* student log helps to ensure privacy.

**Subsection (c)** - This subsection identifies the date and time the medication is administered, the person responsible for administering the medication, and ensures the provision of the service and an accountability system for safety. Documenting the date and time avoids duplicate administration and overdosing errors.

#### **SECTION 608. ERRORS IN MEDICATION ADMINISTRATION IN SCHOOL.**

Failure to administer medication according to the written statement from the authorized health care provider can be detrimental to a pupil's health. Administration of the wrong medication to a pupil can be life threatening. Notifying the schoolsite administrator and school nurse immediately ensures prompt response. The parent/guardian must be informed of such information in order to conduct needed follow-up.

#### **SECTION 609. DISPOSAL OF UNUSED, DISCONTINUED AND OUTDATED MEDICATION AT SCHOOL.**

This section requires local education agencies to consider the issues and ensure that medications are disposed of in a manner that is safe for all school personnel and pupils.

**Subsections (a)(b)(c)** - Medications are paid for and belong to the parent/guardian of the pupil. To help ensure the health and safety of all pupils and staff, medications that are old or not needed should not be kept on the school campus. Therefore, discontinued and outdated medications should be immediately returned to the parent/guardian, unused medications should be returned to the parent/guardian at the end of the school year, and any unclaimed medications should be appropriately disposed of.

#### **SECTION 610. MEDICATION PROVIDED PURSUANT TO AN INDIVIDUALIZED EDUCATION PROGRAM OR SECTION 504 PLAN.**

An Individualized Education Program prepared in accordance with applicable provisions of the federal Individuals with Disabilities Education Act and Part 30 (commencing with Section 56000) of the Education Code, and a Section 504 Accommodation Plan, prepared in accordance with applicable provisions of the federal Rehabilitation Act of 1973 for students with disabilities, provide direction on the administration of medication to pupils with disabilities. These provisions take precedence over Education Code section 49423 and this article.

#### **SECTION 611. EMERGENCY EPINEPHRINE AUTO-INJECTORS.**

Education Code section 49414 provides direction on the administration of emergency epinephrine auto-injectors, which takes precedence over Education Code section 49423 and this article.

#### **SECTION 612. APPLICABILITY OF THIS ARTICLE.**

This section clarifies that it applies to a school district only to the extent that Education Code section 49423 creates an obligation on the part of a local education agency to provide assistance to a pupil who is required to take, during the regular school day, medication prescribed for him or her by an authorized health provider, and beyond that, the article is exemplary.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.**

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

#### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.**

No other alternatives were presented to or considered by the State Board.

#### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.**

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

#### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.**

The proposed regulations would not have a significant adverse economic impact on any business.